

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4960 of 2016

Onkar Nath Roy S/o Late Santoshi Prasad Roy, resident of Village P.O.- Nawadih, Police Station- Kowakol, District- Nawada, at present Assistant Teacher, upgraded Unusuchit Middle School, Nawada, P.S.- Nawada, Town District- Nawada.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director Primary Education, Education Department, Govt. of Bihar, Patna.
3. The District Education Officer, Nawada.
4. The District Programme Officer Establishment, Nawada.
5. The Headmaster, Middle School, Dadaur, Nawada-cum-Drawing and Disbursing Officer, Block- Nawada, Di

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ram Sagar Singh
For the Respondent/s : Mr. Raj Nandan Prasad, SC-9

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 10 16-07-2024 1. The petitioner has filed the writ application for quashing the letter no. 335, dated 25.11.2015, passed by respondent no. 2 and the consequential order, dated 01.12.2015, whereby recovery of a sum of Rs. 28,289/- from the salary of the petitioner has been made by the respondent-authorities.
2. Learned counsel for the petitioner submits that the petitioner was appointed as Assistant Teacher in the Middle School, Samharigarh, Govindpur, Nawada, pursuant to the recommendation made by the Bihar Public Service Commission



in the year 1994 in the pay scale of Rs. 975-1540 having qualification of M. Sc. at the time of his joining.

3. The State Government came out with a circular, dated 07.06.1995, bearing letter no. 998, whereby a decision was taken to grant Matric Trained Scale of Rs. 1200-2040 to the teachers having higher qualification than the matric at the time of their appointment. Accordingly, the petitioner started getting the Matric Trained Scale in the pay scale of Rs. 1200-2040 w.e.f. the date of his appointment vide Annexure-4.

4. The petitioner was granted permission to appear in Shiksha Visharad Examination conducted by the Hindi Sahitya Sammelan, Allahabad. Petitioner passed the said examination on 20.05.1998, which was considered equivalent to the B.Ed. Degree, which would be evident from the letter of the Education Department, dated 29.03.2000. Petitioner also passed the in-service Teachers Training Examination conducted by the Bihar School Examination Board in the year 2005.

5. Learned counsel further submits that Matric Trained Scale was given to the petitioner on the basis of the Government circular, bearing letter no. 998, dated 07.06.1995. The Shiksha Visharad Degree, obtained by the petitioner from Hindi Sahitya Sammelan, was never the basis for grant of



Matric Trained Scale to the petitioner.

6. Annexure-10 is the order passed by the Principal Secretary in the matter of Shikshak Niyojan (Panchayat Teacher) on 20.11.2008, in which it was held that Shiksha Visharad Degree granted by the Hindi Sahitya Sammelan, Allahabad, is not equivalent to B. Ed. Degree.

7. The respondent-authority has passed the impugned order annexed at Annexure-1 on the ground that Shiksha Visharad Degree, obtained by the petitioner from Hindi Sahitya Sammelan, Allahabad, is not equivalent to B. Ed. Degree.

8. He next submits that the petitioner passed the in-service training examination in June, 2005. A Division Bench of this Court, in **Chandra Kant and Ors. v. State of Bihar and Ors.**, reported in **2010 (4) PLJR 732**, has held that no recovery shall be made towards Matric Trained Scale given to the teachers from the date of their appointment.

9. On the other hand, learned counsel for the State submits that impugned order has been passed by the respondent-authorities for recovery of the Matric Trained Scale on the basis of Shiksha Visharad Degree, obtained by the petitioner from Hindi Sahitya Sammelan, Allahabad, not being equivalent to the B.Ed Degree. He further submits that by the departmental order,



dated 20.11.2008, it has been declared that the Shiksha Visharad Degree shall not be equivalent to the B.Ed. Degree.

10. I have heard rival submissions of the parties.

11. The Matric Trained Scale has been granted to the petitioner from the date of his appointment i.e. in the year 1994 on the basis of the Government circular, dated 07.06.1995, bearing letter no. 998. Further, the petitioner has passed the in-service training examination conducted under the rules in the year 2005. The petitioner continued to get Matric Trained Scale from the date of his appointment. A Division Bench of this Court in **Chandra Kant (Supra)** has also considered the issue of grant of Matric Trained Scale to the teachers and has held that the teachers, who have passed the in-service training, shall be entitled for Matric Trained Scale. However, liberty was given to the State Government to fix the cut-off date. The Court stayed the recovery of Matric Trained Scale paid to the teachers prior to 30.09.2003.

12. The grant of Matric Trained Scale to the petitioner is not on the basis of Shiksha Visharad Degree obtained by him. Since, Shiksha Visharad Degree was not the basis for grant of Matric Trained Scale, as such, the impugned order of recovery on the ground that Shiksha



Visharad Degree is not equivalent to the B.Ed Degree is arbitrary and is not sustainable.

13. In the result, the impugned order annexed at Annexure-1 is set aside.

14. The District Education Officer, Nawada, is directed to refund the sum of Rs. 28,289/- recovered from the petitioner within a period of two months from the date of receipt/production of this order.

15. With the aforesaid observation and direction, this writ application is disposed.

(Anil Kumar Sinha, J)

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